

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the reasons that follow.

In the non-final Office Action dated July 10, 2006, all of the pending claims have been rejected under 35 U.S.C. §103 as being unpatentable over Souissi (U.S. Patent No. 6,785,556) in combination with various other references.

Applicant respectfully traverses the Examiner's rejections on the grounds that the Souissi reference, the primary reference cited by the Examiner, does not constitute prior art which can be used to reject the subject application 35 U.S.C. §103. 35 U.S.C. §103(c) states:

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

In the outstanding office action, all of the Examiner's rejections rely upon the Souissi reference as the primary reference, taking the position that most of the features in the independent claims can be found therein. As the Souissi reference was not published until after the filing of the subject application, it only qualifies as prior art under 35 U.S.C. §102(e). However, both *the subject application and the Souissi reference were, at the time of the invention of the subject application was made, owned by Novatel Wireless, Inc.* As such, the Souissi reference is disqualified as prior art under 35 U.S.C. §103(c).

Since the Souissi reference is disqualified as prior art under 35 U.S.C. §103(c), Applicant submits that each of the Examiner's rejections is overcome. In particular, Applicant submits that, because the Examiner relied upon the Souissi reference for features in every pending claim, these rejections can no longer stand. For this reason, Applicant submits that pending claims 32, 35, 37-42, 44-47, 49, and 51-55 are allowable in their current form.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

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